

Office of Thrift Supervision, Treasury

§ 550.200

only incidentally affect the fiduciary operations of Federal savings associations or are otherwise consistent with the purposes of paragraph (a) of this section:

- (1) Contract and commercial law;
- (2) Real property law;
- (3) Tort law;
- (4) Criminal law;
- (5) Probate law; and
- (6) Any other law that OTS, upon review, finds:
 - (i) Furthers a vital State interest; and
 - (ii) Either has only an incidental effect on fiduciary operations or is not otherwise contrary to the purposes expressed in paragraph (a) of this section.

[67 FR 76299, Dec. 12, 2002, as amended at 68 FR 53026, Sept. 9, 2003]

§ 550.140 Must I adopt and follow written policies and procedures in exercising fiduciary powers?

You must adopt and follow written policies and procedures adequate to maintain your fiduciary activities in compliance with applicable law. Among other relevant matters, the policies and procedures should address, where appropriate, the following areas:

- (a) Your brokerage placement practices.
- (b) Your methods for ensuring that your fiduciary officers and employees do not use material inside information in connection with any decision or recommendation to purchase or sell any security.
- (c) Your methods for preventing self-dealing and conflicts of interest.
- (d) Your selection and retention of legal counsel who is ready and available to advise you and your fiduciary officers and employees on fiduciary matters.
- (e) Your investment of funds held as fiduciary, including short-term investments and the treatment of fiduciary funds awaiting investment or distribution.

FIDUCIARY PERSONNEL AND FACILITIES

§ 550.150 Who is responsible for the exercise of fiduciary powers?

The exercise of your fiduciary powers must be managed by or under the direction of your board of directors. In

discharging its responsibilities, the board may assign any function related to the exercise of fiduciary powers to any director, officer, employee, or committee of directors, officers, or employees.

§ 550.160 What personnel and facilities may I use to perform fiduciary services?

You may use your qualified personnel and facilities or an affiliate's qualified personnel and facilities to perform services related to the exercise of fiduciary powers.

§ 550.170 May my other departments or affiliates use fiduciary personnel and facilities to perform other services?

Your other departments or affiliates may use fiduciary officers, employees, and facilities to perform services unrelated to the exercise of fiduciary powers, to the extent not prohibited by applicable law.

§ 550.180 May I perform fiduciary services for, or purchase fiduciary services from, another association or entity?

You may perform services related to the exercise of fiduciary powers for another association or other entity under a written agreement. You may also purchase services related to the exercise of fiduciary powers from another association or other entity under a written agreement.

§ 550.190 Must fiduciary officers and employees be bonded?

You must obtain an adequate bond for all fiduciary officers and employees.

REVIEW OF A FIDUCIARY ACCOUNT

§ 550.200 Must I review a prospective account before I accept it?

Before accepting a prospective fiduciary account, you must review it to determine whether you can properly administer the account.